

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE HEALTH AND GOVERNMENT AFFAIRS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 498

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

AN ACT

RELATING TO HEALTH CARE; AMENDING SECTIONS OF THE MEDICAL
RADIATION HEALTH AND SAFETY ACT; RENAMING THE MEDICAL RADIATION
HEALTH AND SAFETY ACT AS THE MEDICAL IMAGING AND RADIATION
THERAPY HEALTH AND SAFETY ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 61-14E-1 NMSA 1978 (being Laws 1983,
Chapter 317, Section 1) is amended to read:

"61-14E-1. SHORT TITLE.--~~[Sections 1 through 12 of this
act]~~ Chapter 61, Article 14E NMSA 1978 may be cited as the
"Medical Imaging and Radiation Therapy Health and Safety Act"."

Section 2. Section 61-14E-2 NMSA 1978 (being Laws 1983,
Chapter 317, Section 2) is amended to read:

"61-14E-2. PURPOSE OF ACT.--The purpose of the Medical
Imaging and Radiation Therapy Health and Safety Act is to

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underscored material = new
[bracketed material] = delete

1 maximize the protection practicable for the citizens of New
2 Mexico from ionizing and non-ionizing radiation in the practice
3 of the healing arts. This purpose is effectuated by
4 establishing requirements for appropriate education and
5 training of persons operating medical equipment emitting
6 ionizing and non-ionizing radiation, establishing standards of
7 education and training for the persons who administer
8 [~~radiologic~~] medical imaging and radiation therapy procedures
9 and providing for the appropriate examination and certification
10 of those persons."

11 Section 3. Section 61-14E-3 NMSA 1978 (being Laws 1983,
12 Chapter 317, Section 3, as amended) is amended to read:

13 "61-14E-3. ADMINISTRATION--ENFORCEMENT.--The
14 administration and enforcement of the Medical Imaging and
15 Radiation Therapy Health and Safety Act is vested in the
16 department."

17 Section 4. Section 61-14E-4 NMSA 1978 (being Laws 1983,
18 Chapter 317, Section 4, as amended) is amended to read:

19 "61-14E-4. DEFINITIONS.--As used in the Medical Imaging
20 and Radiation Therapy Health and Safety Act:

21 A. "advisory council" means the radiation technical
22 advisory council;

23 B. "board" means the environmental improvement
24 board;

25 C. "certificate of limited practice" means a

1 certificate issued pursuant to the Medical Imaging and
2 Radiation Therapy Health and Safety Act to persons who perform
3 restricted diagnostic radiography under direct supervision of a
4 licensed practitioner limited to the following specific
5 procedures:

6 (1) the viscera of the thorax;

7 (2) extremities;

8 (3) radiation to humans for diagnostic
9 purposes in the practice of dentistry;

10 (4) axial/appendicular skeleton; or

11 (5) the foot, ankle or lower leg;

12 D. "certified nurse practitioner" means a person
13 licensed pursuant to Section 61-3-23.2 NMSA 1978;

14 E. "department" means the department of
15 environment;

16 F. "division" means the environmental health
17 division of the department of environment;

18 G. "ionizing radiation" means alpha particles, beta
19 particles, gamma rays, x-rays, neutrons, high-speed electrons,
20 high-speed protons and other particles capable of producing
21 ions; "ionizing radiation" does not include non-ionizing
22 radiation, such as radio waves or microwaves, or visible,
23 infrared or ultraviolet light;

24 [~~F.~~] H. "licensed practitioner" means a person
25 licensed to practice medicine, dentistry, podiatry,

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1 chiropractic or osteopathy in this state;

2 I. "magnetic resonance technologist" means a person
3 other than a licensed practitioner who performs magnetic
4 resonance procedures under the supervision of a licensed
5 practitioner using magnetic fields and radio frequency signals;

6 J. "medical imaging" means the use of substances or
7 equipment emitting ionizing or non-ionizing radiation on humans
8 for diagnostic or interventional purposes;

9 K. "medical imaging technologist" means a person
10 who is a magnetic resonance technologist, radiographer, nuclear
11 medicine technologist or medical sonographer and who is
12 certified pursuant to the Medical Imaging and Radiation Therapy
13 Health and Safety Act;

14 L. "medical sonographer" means a person other than
15 a licensed practitioner who provides patient care services
16 using ultrasound; a "medical sonographer" may also be referred
17 to as a vascular sonographer, vascular technician, vascular
18 technologist, ultrasound technician, ultrasound technologist,
19 echocardiographer, echo technician or echo technologist;

20 M. "non-ionizing radiation" means the optical
21 radiations, including ultraviolet, visible, infrared and
22 lasers, static and time-varying electric and magnetic fields
23 and radio frequency, including microwave radiation and
24 ultrasound;

25 ~~[G.]~~ N. "nuclear medicine technologist" means a

1 person other than a licensed practitioner who applies
2 radiopharmaceutical agents to humans for diagnostic or
3 therapeutic purposes under the direction of a licensed
4 practitioner;

5 O. "radiation therapy" means the application of
6 ionizing radiation to humans for therapeutic purposes;

7 [H.] P. "radiation therapy technologist" means a
8 person other than a licensed practitioner whose application of
9 radiation to humans is for therapeutic purposes;

10 [I.] Q. "radiographer" means a person other than a
11 licensed practitioner whose application of radiation to humans
12 is for diagnostic purposes;

13 ~~[J. "radiologic technologist" means any person who~~
14 ~~is a radiographer, a radiation therapy technologist or a~~
15 ~~nuclear medicine technologist and who is certified pursuant to~~
16 ~~the Medical Radiation Health and Safety Act;~~

17 ~~K. "radiologic technology" means the use of~~
18 ~~substances or equipment emitting ionizing radiation to humans~~
19 ~~for diagnostic or therapeutic purposes;~~

20 [L.] R. "radiologist" means a licensed practitioner
21 certified by the American board of radiology, the British royal
22 college of radiology, the American osteopathic board of
23 radiology or the American chiropractic board of radiology; and

24 [M.] S. "registered physician assistant" means a
25 person registered pursuant to Section 61-6-7 NMSA 1978 or

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1 Section 61-10A-4 NMSA 1978."

2 Section 5. Section 61-14E-5 NMSA 1978 (being Laws 1983,
3 Chapter 317, Section 5) is amended to read:

4 "61-14E-5. BOARD--POWERS--DUTIES.--The board shall,
5 pursuant to the advice and recommendations of the advisory
6 council and following the procedures set forth in Section
7 74-1-9 NMSA 1978:

8 A. adopt and promulgate such rules, regulations and
9 certification standards as may be necessary to effectuate the
10 provisions of the Medical Imaging and Radiation Therapy Health
11 and Safety Act and to maintain high standards of practice; and

12 B. adopt rules and regulations establishing
13 continuing education requirements as a condition of certificate
14 renewal for the purpose of protecting the health and well-being
15 of the citizens of New Mexico and promoting current knowledge
16 and practice regarding [~~radiologic technology~~] medical imaging
17 and radiation therapy."

18 Section 6. Section 61-14E-6 NMSA 1978 (being Laws 1983,
19 Chapter 317, Section 6) is amended to read:

20 "61-14E-6. DIVISION--POWERS--DUTIES.--The division,
21 pursuant to the rules and regulations promulgated by the board,
22 shall:

23 A. maintain and enforce certification standards for
24 magnetic resonance, radiography, radiation therapy technology,
25 nuclear medicine technology, medical sonography and

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1 certificates of limited practice;

2 B. establish criteria and maintain standards for
3 educational programs of magnetic resonance, radiography,
4 radiation therapy [~~and~~] technology, nuclear medicine technology
5 and medical sonography and approve educational programs upon a
6 finding that the standards and criteria have been met;

7 C. provide for surveys of educational programs
8 preparing persons for certification under the Medical Imaging
9 and Radiation Therapy Health and Safety Act;

10 D. grant, deny or withdraw approval from
11 educational programs for failure to meet prescribed standards,
12 provided that a majority of the board concurs in any decision;
13 [~~and~~]

14 E. establish procedures for examination,
15 certification and renewal of certificates of applicants; and

16 F. establish scope of practice and ethics rules."

17 Section 7. Section 61-14E-7 NMSA 1978 (being Laws 1983,
18 Chapter 317, Section 7, as amended) is amended to read:

19 "61-14E-7. CERTIFICATION--EXCEPTIONS.--

20 A. It is unlawful, unless certified by the
21 department as a [~~radiologic~~] medical imaging technologist or
22 radiation therapist, for any person to:

23 [~~A.~~] (1) use ionizing or non-ionizing
24 radiation on humans;

25 [~~B. use the title "radiologic technologist" or~~

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1 ~~the abbreviation "L.R.T." or any other abbreviation thereof or]~~

2 (2) use any ~~[other]~~ title, abbreviation,
3 letters, figures, signs or other devices to indicate that the
4 person is a certified ~~[radiologic]~~ medical imaging technologist
5 or radiation therapist; or

6 ~~[G.]~~ (3) engage in any of the ~~[radiology]~~
7 specialties as defined by the Medical Imaging and Radiation
8 Therapy Health and Safety Act.

9 B. Notwithstanding any other provision of the
10 Medical Imaging and Radiation Therapy Health and Safety Act,
11 the requirement of a certificate shall not apply to a licensed
12 practitioner or auxiliary or health practitioner licensed or
13 certified by an independent board; provided that any
14 certification and examination program ~~[for auxiliaries]~~
15 established by an independent board shall be submitted to the
16 advisory council and approved by the board. The requirement of
17 a certificate shall also not apply to a student who is enrolled
18 in and attending a required individual education program of a
19 school or college of medicine, osteopathy, chiropractic,
20 podiatry, dentistry or dental hygiene ~~[or radiologic~~
21 ~~technology]~~ to apply radiation to humans under the supervision
22 of a licensed practitioner or under the direct supervision of a
23 certified ~~[radiologic]~~ medical imaging technologist or
24 radiation therapist.

25 C. Notwithstanding any other provision of the

1 Medical Imaging and Radiation Therapy Health and Safety Act,
 2 the requirement of a certificate shall not apply to a student
 3 completing clinical requirements of an approved education
 4 program working under the supervision of a licensed
 5 practitioner or under the direct supervision of a medical
 6 imaging technologist or radiation therapist certified in the
 7 practice for which the student is seeking certification.

8 D. Notwithstanding any other provision of the
 9 Medical Imaging and Radiation Therapy Health and Safety Act,
 10 the requirement of a certificate shall not apply to a certified
 11 medical imaging technologist or radiation therapist completing
 12 clinical procedures as part of an advanced certification."

13 Section 8. Section 61-14E-9 NMSA 1978 (being Laws 1983,
 14 Chapter 317, Section 9, as amended) is amended to read:

15 "61-14E-9. FEES FOR CERTIFICATION.--After the
 16 promulgation of rules and regulations, the department shall
 17 charge and collect the following fees:

18 A. an ~~[initial]~~ application fee not to exceed ten
 19 dollars (\$10.00);

20 B. an examination fee not to exceed ~~[fifty dollars~~
 21 ~~(\$50.00) for a full certificate and not to exceed twenty five~~
 22 ~~dollars (\$25.00) for a certificate of limited practice;~~

23 ~~C. a full certificate renewal fee determined by the~~
 24 ~~board in an amount not to exceed one hundred dollars (\$100)~~
 25 ~~biennially; and~~

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1 ~~D. a certificate of limited practice renewal fee~~
2 ~~determined by the board in an amount not to exceed sixty~~
3 ~~dollars (\$60.00) biennially upon submission of proof of at~~
4 ~~least twenty hours of continuing education requirements as~~
5 ~~required by the department.~~

6 ~~Any person who allows his certificate to lapse by failure~~
7 ~~to renew as provided in the Medical Radiation Health and Safety~~
8 ~~Act shall be reinstated by the department on payment of the fee~~
9 ~~for the current biennium plus a reinstatement fee to be set by~~
10 ~~the department in an amount which shall not exceed the renewal~~
11 ~~fee. This provision shall not apply to anyone whose~~
12 ~~certificate has been revoked or suspended] one hundred fifty~~
13 ~~dollars (\$150) to cover the costs the department incurs in~~
14 ~~administering the required exams;~~

15 C. a biennial certification fee not to exceed one
16 hundred dollars (\$100);

17 D. a temporary certification fee not to exceed
18 fifty dollars (\$50.00) to cover a period no longer than twelve
19 months when new graduates of an approved program are in the
20 process of taking required exams; and

21 E. miscellaneous fees, such as for requests for
22 duplicate or replacement certificates, legal name change and
23 written verification, not to exceed twenty-five dollars
24 (\$25.00)."

25 Section 9. Section 61-14E-10 NMSA 1978 (being Laws 1983,

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1 Chapter 317, Section 10, as amended) is amended to read:

2 "61-14E-10. FUND ESTABLISHED--DISPOSITION--METHOD OF
3 PAYMENT.--

4 A. There is created in the state treasury the
5 "radiologic technology fund".

6 B. All fees received by the department pursuant to
7 the Medical Imaging and Radiation Therapy Health and Safety Act
8 shall be deposited with the state treasurer. The state
9 treasurer shall place the money to the credit of the radiologic
10 technology fund.

11 C. Payments out of the radiologic technology fund
12 shall be on vouchers issued and signed by the person designated
13 by the department upon warrants drawn by the department of
14 finance and administration and shall be used by the department
15 for the purpose of meeting necessary expenses incurred in the
16 enforcement of the purposes of the Medical Imaging and
17 Radiation Therapy Health and Safety Act, the duties imposed by
18 that act and the promotion of education and standards for
19 [~~radiologic~~] medical imaging technology and radiation therapy
20 in this state. All money unexpended or unencumbered at the end
21 of the fiscal year shall remain in the radiologic technology
22 fund for use in accordance with the provisions of the Medical
23 Imaging and Radiation Therapy Health and Safety Act."

24 Section 10. Section 61-14E-11 NMSA 1978 (being Laws 1983,
25 Chapter 317, Section 11) is amended to read:

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1 "61-14E-11. SUSPENSION--REVOCATION--APPLICATION OF
2 UNIFORM LICENSING ACT.--The board, pursuant to the advice and
3 recommendation of the advisory council, may deny, revoke or
4 suspend any certificate held or applied for under the Medical
5 Imaging and Radiation Therapy Health and Safety Act, pursuant
6 to the procedures established in the Uniform Licensing Act,
7 upon grounds that the [~~radiologic~~] medical imaging
8 technologist, radiation therapist or the applicant:

9 A. is guilty of fraud or deceit in procuring or
10 attempting to procure a full certificate or certificate of
11 limited practice;

12 B. is convicted of a felony subsequent to
13 certification;

14 C. is unfit or incompetent;

15 D. is habitually intemperate or is addicted to the
16 use of habit-forming drugs;

17 E. is mentally incompetent;

18 F. has aided and abetted a person who is not
19 certified pursuant to the Medical Imaging and Radiation Therapy
20 Health and Safety Act or otherwise authorized by that act in
21 engaging in the activities of a certificate holder;

22 G. has engaged in any practice beyond the scope of
23 authorized activities of a full certificate or certificate of
24 limited practice holder pursuant to the Medical Imaging and
25 Radiation Therapy Health and Safety Act;

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1 H. is guilty of unprofessional conduct or unethical
2 conduct as defined by rules promulgated by the board;

3 I. has interpreted a diagnostic imaging procedure
4 for a patient, the patient's family or the public; or

5 J. has willfully or repeatedly violated any
6 provisions of the Medical Imaging and Radiation Therapy Health
7 and Safety Act."

8 Section 11. Section 61-14E-12 NMSA 1978 (being Laws 1983,
9 Chapter 317, Section 12, as amended) is amended to read:

10 "61-14E-12. VIOLATIONS--PENALTIES.--It is a misdemeanor
11 for any person, firm, association or corporation to:

12 A. knowingly or willfully employ as a [~~radiologic~~]
13 medical imaging technologist or radiation therapist any person
14 who is required to but does not possess a valid certificate or
15 certificate of limited practice to engage in the practice of
16 [~~radiologic~~] medical imaging technology or radiation therapy;

17 B. sell, fraudulently obtain or furnish any
18 [~~radiologic~~] medical imaging technology or radiation therapy
19 certificate or certificate of limited practice or to aid or
20 abet therein;

21 C. practice [~~radiologic~~] medical imaging technology
22 or radiation therapy as defined by the Medical Imaging and
23 Radiation Therapy Health and Safety Act unless exempted or duly
24 certified to do so under the provisions of that act; or

25 D. otherwise violate any provisions of the Medical

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